



**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ROCK HILL DIVISION**

JOSEPH BARRY MALASKY,  
Plaintiff,

vs.

RAM JACK OF SOUTH CAROLINA, INC.  
and SCOTT ERLEWINE, *individually and as*  
*Owner of Ram Jack of South Carolina, Inc.*,  
Defendants.

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Civil Action No .0:20-2055-MGL-SVH

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**ORDER ADOPTING THE REPORT AND RECOMMENDATION,  
AND GRANTING DEFENDANTS'  
MOTION FOR PARTIAL SUMMARY JUDGMENT**

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Plaintiff Joseph Barry Malasky (Mulasky), brought this job discrimination lawsuit against the above-named defendants (Defendants). The action is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting Defendants' motion for partial summary judgment be granted, and Mulasky's ADA, FLSA, and conversion claims be dismissed with prejudice. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made, and the Court may

accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on April 7, 2022, and Malasky filed a reply on April 20, 2022, stating he would not be filing any objections to the Report. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court motion for partial summary judgment is **GRANTED**, and Malaskey’s ADA, FLSA, and conversion claims are **DISMISSED WITH PREJUDICE**.

**IT IS SO ORDERED.**

Signed this 26th day of April, 2022, in Columbia, South Carolina.

/s/ Mary Geiger Lewis  
MARY GEIGER LEWIS  
UNITED STATES DISTRICT JUDGE